

AMENDED IN ASSEMBLY APRIL 28, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2027

Introduced by ~~Assembly Member Blumenfield~~ *Assembly Members
Blumenfield and Cook*
(Principal coauthor: Assembly Member Torlakson)

February 17, 2010

An act to add Section 46300.8 to the Education Code, relating to online education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2027, as amended, Blumenfield. Online education: school attendance.

Existing law establishes the public elementary and secondary school system in this state, and further establishes a funding system pursuant to which the state apportions funds to local educational agencies based on the average daily attendance of pupils at the schools operated by those agencies. Numerous statutes and regulations govern the calculation and reporting of average daily attendance.

This bill, commencing with the 2011–12 fiscal year, would provide that school districts ~~and~~, county offices of education, *and charter schools* that offer online education courses may claim ~~one day of~~ attendance toward average daily attendance on the basis of ~~the attendance at a class or classes in a classroom-based setting of a pupil taking at least one high-quality online course~~ *a pupil's attendance in an online class or classes* that ~~satisfies~~ *satisfy* prescribed criteria.

The bill would require the State Board of Education to submit a report including its recommendations on prescribed topics relating to online education to the Legislature and the Governor on or before July 1, 2012.

The bill would require the Superintendent of Public Instruction, in consultation with the Director of Finance, on or before December 31, 2011, to make revisions to any attendance accounting manual or guidance provided to school districts, county offices of education, or charter schools that are necessary to conform to these provisions, or to clarify these provisions with respect to attendance accounting procedures for asynchronous online courses. The bill additionally would require the Superintendent to adopt rules and regulations for the purpose of clarifying or expanding the procedures required for verifying the identification of pupils participating in asynchronous online courses.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 46300.8 is added to the Education Code,*
2 *to read:*
3 *46300.8. (a) Commencing with the 2011–12 fiscal year, a*
4 *school district, county office of education, or charter school may*
5 *claim attendance toward average daily attendance, for the*
6 *purposes of calculating average daily attendance pursuant to*
7 *Section 46300, on the basis of a pupil’s attendance in an online*
8 *class or classes if all of the following apply:*
9 *(1) The pupil is enrolled in grade 9, 10, 11, or 12.*
10 *(2) The pupil is enrolled in classes that include courses in a*
11 *classroom-based setting, courses that are offered through an online*
12 *program, or both.*
13 *(3) The pupil meets minimum instructional time requirements*
14 *pursuant to:*
15 *(A) Section 46141 and Section 46201, 46201.5 or 46202, as*
16 *applicable, for pupils enrolled in a noncharter school in a school*
17 *district or county office of education.*
18 *(B) Subdivision (e) of Section 47612.5 for pupils enrolled in a*
19 *charter school.*
20 *(4) Each online course in which the pupil is enrolled is a*
21 *high-quality online course.*
22 *(b) For the purposes of this section, a high-quality online course*
23 *is defined as an online course that meets all of the following*
24 *requirements:*

1 (1) *The online course is approved by the governing board of*
2 *the school district or county office of education, or the governing*
3 *body of the charter school.*

4 (2) *The online course is certified to meet these requirements,*
5 *through board resolution, by the governing board of the school*
6 *district or county office of education, or the governing body of the*
7 *charter school.*

8 (3) *Either of the following:*

9 (A) *The teacher is online at the same time as each pupil, is*
10 *accessible to each pupil attending the synchronous online course*
11 *to respond to pupil queries, assign tasks, and dispense information,*
12 *and is able to make a line-of-sight visual connection with each*
13 *pupil for the purposes of verifying attendance or providing*
14 *immediate supervision of the pupil.*

15 (B) *The teacher is online at different times as each pupil, is*
16 *accessible to each pupil attending the asynchronous online course*
17 *to respond to pupil queries, assign tasks and dispense information,*
18 *and for the purposes of verifying attendance is able to employ at*
19 *least one of the following:*

20 (i) *Periodic proctored examinations.*

21 (ii) *Biometric verification.*

22 (iii) *A line-of-sight visual connection including, but not limited*
23 *to, Internet Webcam.*

24 (4) *The ratio of full-time equivalent certificated teachers*
25 *teaching the online course to pupils enrolled in that course is*
26 *greater than or equal to the ratio of teachers to pupils in traditional*
27 *classroom study of the same subject matter in the school, school*
28 *district, or the unified school district with the largest average daily*
29 *attendance of pupils in that county.*

30 (5) *The teacher of the online course has taught the same course*
31 *to pupils in a traditional classroom setting or in an online setting*
32 *at any time within the immediately preceding two-year period.*

33 (6) *The subject matter content is the same for the online course*
34 *as for the traditional classroom-based course in the school, school*
35 *district, or the unified school district with the largest average daily*
36 *attendance of pupils in that county.*

37 (7) *The teacher of the online course holds the appropriate*
38 *subject matter credential.*

1 (8) *Statewide testing results for online pupils are reported and*
2 *assigned to the school, school district, or county office of education*
3 *in which the pupil is enrolled for regular classroom courses.*

4 (9) *The online course is offered by a high school.*

5 (10) *No pupil is assigned to the online course unless the pupil*
6 *voluntarily elects to participate in the online course and the parent*
7 *or guardian of the pupil provides written consent before the pupil*
8 *participates in the online course.*

9 (11) *No pupil voluntarily electing to participate in the online*
10 *course is denied access because the pupil lacks the computer*
11 *hardware or software necessary to participate in the online course.*

12 (12) *No pupil is charged for his or her participation in the online*
13 *course.*

14 (13) *Pupils enrolled in the online course take examinations by*
15 *proctor or other reliable methods are used to ensure test integrity,*
16 *and there is a clear record of pupil work, using the same method*
17 *of documentation and assessment as used in a classroom-based*
18 *course.*

19 (14) *Contemporaneous records of the time that a pupil spends*
20 *online in the course and in related activities, and of the time the*
21 *teacher is online with pupils, are maintained by the school, school*
22 *district, or county office of education.*

23 (c) *A school district, county office of education, or charter*
24 *school offering an online course may contract with a school district*
25 *to provide an online course meeting all of the requirements*
26 *specified in subdivisions (a) and (b) to pupils of the offering school*
27 *district.*

28 (1) *A teacher of an online course shall be an employee of the*
29 *providing school district and shall meet all of the requirements*
30 *for a teacher of an online course specified in subdivision (b).*

31 (2) *For the purposes of subdivision (a) of Section 46300 only,*
32 *a teacher meeting the requirements of paragraph (1) shall be*
33 *deemed to be an employee of the offering school district, county*
34 *office of education, or charter school.*

35 (3) *Contract terms shall be determined by mutual agreement of*
36 *the school districts.*

37 (4) *School districts that provide online courses pursuant to the*
38 *contract shall contract directly with the offering school district,*
39 *county office of education, or charter school, and shall not enter*

1 *into direct contracts with the pupils of the offering school district*
2 *or otherwise attempt to enroll those pupils.*

3 *(d) Nothing in this section shall be interpreted to mean that a*
4 *charter school provides classroom-based or nonclassroom-based*
5 *instruction for the purposes of the state board determination made*
6 *pursuant to Section 47612.5.*

7 *(e) Attendance accounted for pursuant to subdivision (a) and*
8 *compliance with the requirements of subdivision (b) are subject*
9 *to the audit conducted pursuant to Section 41020.*

10 *(f) No provision of this section may be waived unless the waiver*
11 *is specifically authorized in statute.*

12 *(g) The Superintendent, in consultation with the Director of*
13 *Finance, on or before December 31, 2011, shall do all of the*
14 *following:*

15 *(1) Make revisions to any attendance accounting manual or*
16 *guidance provided to school districts, county offices of education,*
17 *or charter schools that are necessary to conform to this section.*

18 *(2) Make revisions to any attendance accounting manual or*
19 *guidance provided to school districts, county offices of education,*
20 *or charter schools that are necessary to clarify attendance*
21 *accounting procedures for asynchronous online courses.*

22 *(3) Make recommendations to the appropriate policy and fiscal*
23 *committees in both houses of the Legislature and to the Governor*
24 *regarding statutory changes that would be necessary to allow*
25 *pupil attendance in asynchronous online courses to be included*
26 *in the calculation of average daily attendance pursuant to Section*
27 *46300.*

28 *(h) For the purposes of calculating average daily attendance*
29 *pursuant to Section 46300 and meeting the minimum instructional*
30 *time requirements specified in paragraph (3) of subdivision (a),*
31 *a pupil engaged in educational activities in an online course*
32 *meeting the requirements of subdivisions (a) and (b) shall be*
33 *deemed to be under the immediate supervision and control of an*
34 *employee of the district or county office who possessed a valid*
35 *certification document, registered as required by law and shall be*
36 *deemed to be attending at the schoolsite of the charter school.*

37 *(i) For the purposes of calculating average daily attendance*
38 *pursuant to Section 46300, a school district, county office of*
39 *education, or charter school claiming pupil attendance in an online*
40 *course meeting the requirements of subdivision (b) shall not be*

1 *required to meet the requirements of Article 5.5 (commencing with*
2 *Section 51745) of Chapter 5 of Part 28.*

3 *(j) For the purposes of this section, the following definitions*
4 *apply:*

5 *(1) “Asynchronous online course” means a course where the*
6 *teacher and pupil are online at different times and are unable to*
7 *interact simultaneously.*

8 *(2) “Synchronous online course” means a course where the*
9 *teacher and pupil are online at the same time and able to interact*
10 *at that time.*

11 *(k) The Superintendent shall adopt rules and regulations,*
12 *pursuant to the rulemaking provisions of the Administrative*
13 *Procedure Act, Chapter 3.5 (commencing with Section 11340) of*
14 *Part 1 of Division 3 of Title 2 of the Government Code, for the*
15 *purpose of clarifying or expanding the procedures required for*
16 *verifying the identification of pupils participating in asynchronous*
17 *online courses meeting all of the requirements of subdivisions (a)*
18 *and (b).*

19 ~~SECTION 1. Section 46300.8 is added to the Education Code,~~
20 ~~to read:~~

21 ~~46300.8. (a) Commencing with the 2011–12 fiscal year, a~~
22 ~~school district or county office of education may claim one day of~~
23 ~~attendance toward average daily attendance on the basis of a pupil’s~~
24 ~~attendance at a class or classes in the classroom-based setting on~~
25 ~~that day, if all of the following apply:~~

26 ~~(1) The pupil is enrolled in grade 9, 10, 11, or 12.~~

27 ~~(2) The pupil is enrolled for at least the minimum school day~~
28 ~~in classes that include both one or more courses in a~~
29 ~~classroom-based setting and one or more courses that are offered~~
30 ~~through an online program.~~

31 ~~(3) Each online course in which the pupil is enrolled is a~~
32 ~~high-quality online course.~~

33 ~~(b) For the purposes of this section, a high-quality online course~~
34 ~~is defined as an online course that meets all of the following~~
35 ~~requirements:~~

36 ~~(1) The online course is approved by the governing board of~~
37 ~~the school district.~~

38 ~~(2) The online course is certified, through board resolution, by~~
39 ~~the governing board of the school district to meet these~~
40 ~~requirements.~~

1 ~~(3) The teacher of an online course is online and accessible to~~
2 ~~the pupil on a daily basis to respond to pupil queries, assign tasks,~~
3 ~~and dispense information, though the teacher's interaction with~~
4 ~~the pupil may be asynchronous or synchronous in nature.~~

5 ~~(4) The ratio of full-time equivalent certificated teachers~~
6 ~~teaching through online instruction to pupils engaging in that~~
7 ~~instruction is substantially equivalent to the ratio of teachers to~~
8 ~~pupils in traditional in-classroom study of the same subject matter.~~

9 ~~(5) A teacher may teach pupils in one or more online courses~~
10 ~~pursuant to this section only if the teacher concurrently teaches~~
11 ~~the same course to pupils in a traditional in-classroom setting in~~
12 ~~the providing school district or did so at any time within the~~
13 ~~immediately preceding two-year period.~~

14 ~~(6) The subject matter content is the same for the online course~~
15 ~~as for the traditional classroom-based course.~~

16 ~~(7) A teacher teaching in an online classroom program holds~~
17 ~~the appropriate subject matter credential.~~

18 ~~(8) A school district offering an online course may contract with~~
19 ~~another school district to provide the online course to pupils of the~~
20 ~~offering school district. Contract terms shall be determined by~~
21 ~~mutual agreement of the school districts. School districts that~~
22 ~~provide online courses pursuant to the contract shall contract~~
23 ~~directly with the school district of the school site offering the online~~
24 ~~course, and shall not enter into direct contracts with the pupils of~~
25 ~~the offering school district.~~

26 ~~(9) Statewide testing results for online pupils are reported to~~
27 ~~the school district in which the pupil is enrolled for regular~~
28 ~~in-classroom courses.~~

29 ~~(10) The online instruction is offered by a high school.~~

30 ~~(11) A pupil is not assigned to an online course pursuant to this~~
31 ~~section unless the pupil voluntarily elects to participate in the~~
32 ~~online course. The parent or guardian of the pupil provides written~~
33 ~~consent before the pupil participates in an online course.~~

34 ~~(12) The school district of a school site that offers online~~
35 ~~classroom programs pursuant to this section verifies that online~~
36 ~~pupils take examinations by proctor or that other reliable methods~~
37 ~~are used to ensure test integrity and that there is a clear record of~~
38 ~~pupil work, using the same method of documentation and~~
39 ~~assessment as in a classroom-based course.~~

~~(13) A school district of a school site that offers online classroom programs pursuant to this section maintains records to verify the time that a pupil spends online and related activities in which a pupil is involved. The school district also maintains records verifying the time the instructor is online.~~

~~(e) Attendance accounted for pursuant to subdivision (a) and compliance with the requirements of subdivision (b) are subject to the audit conducted pursuant to Section 41020.~~

~~(d) No provision of this section may be waived unless the waiver is specifically authorized in statute.~~

~~SEC. 2. (a) The State Board of Education shall submit a report relating to online education to the Legislature and the Governor. The report shall include, but not necessarily be limited to, the recommendations of the State Board of Education relating to all of the following:~~

~~(1) Standards for online education.~~

~~(2) The inclusion of online education in curriculum frameworks to ensure that pupils have the opportunity to experience online education.~~

~~(3) Changes in the Education Code necessary to facilitate online education opportunities.~~

~~(b) The State Board of Education shall submit the report required by this section to the Legislature and the Governor on or before July 1, 2012.~~